

**SECTION: OFFICE of PROFESSIONAL STANDARDS****TITLE: Incident Review Board****ISSUED: November 22, 2017****CALEA Standards: NA**Chief of Police  
David K. Jernigan**PURPOSE:** To establish a Procedural Outline for the Department's Incident Review Board.**POLICY:** It is the policy of the Madison Police Department to conduct an administrative review for incidents that resulted in the discharging of a firearm regardless of injury.**SCOPE:** This policy is applicable to all personnel.**RESPONSIBILITY:** All personnel will familiarize themselves with and comply with this written directive. All supervisors shall be responsible to ensure that subordinates are familiar with and comply with this policy.**I. Incident Review Board (IRB)**

- A. The IRB is an advisory body that conducts an administrative hearing into incidents involving members of the Department that resulted in the discharge of a firearm to include non-effective discharges.
  - 1. At the discretion of the Chief of Police, an IRB may be convened to review Department incidents involving serious physical injury or death as a result of a Department member's activity.
  - 2. Any other incident as assigned.
- B. The IRB will convene at a time deemed appropriate by the Chief of Police.

**II. Independent Panel**

- A. The intent of the IRB is to bring an additional level of review to the performance of the Department. Therefore the IRB is independent, having no criminal culpability nor shall its forum impede any other investigation(s).
  - 1. The IRB shall be comprised of the following voting members:
    - a) Division Commander: Chairperson appointed by the Chief of Police, and shall be responsible for convening other board members (votes only if a tie occurs).
    - b) Lieutenant
    - c) Sergeant
    - d) Patrolman
    - e) A member from the County District Attorney's Office (dependent on county where the incident occurred)
  - 2. The Board shall also consist of the following non-voting members:
    - a) Immediate supervisor of the involved employee
    - b) Incident investigator
    - c) Training Unit Representative
  - 3. The Chief of Police may appoint additional board members and/or invite other parties as he/she deems appropriate.

- B. Department personnel, when assigned to an IRB, will temporarily fall under the chain of command of the Board Chairperson. Assigned members will remain on the Board until a final determination of findings has been approved by the Chief of Police.
- C. No supervisor or employee directly involved in the investigation or the incident may serve as a member of the board. Supervisor of the involved employee shall not serve as a voting Board member.
- D. The Training Unit representative should be qualified to give testimony regarding response to resistance, and be knowledgeable of tactics, weapons and less-lethal devices used by Department members.

### III. IRB Investigation

- A. IRB members are charged with the responsibility of thoroughly examining and critiquing the facts and information pertaining to the incident brought before them.
  - 1. In most incidents, unless directed otherwise by the Office of the Chief of Police, the Office of Professional Standards (OPS) has primary responsibility for response to resistance investigations.
  - 2. Investigator shall prepare the necessary investigative material to be presented to the IRB.
    - a) A chronological narrative (timeline) of the incident, including all events prior to, during, and immediately following it;
    - b) The names of other involved personnel, if applicable;
    - c) The names and addresses of all witnesses, and the names of any other Department employees present and their duty assignment;
    - d) Affected employee(s) training records (i.e. Firearms, CEW, PPCT, etc.) and certifications;
    - e) A description of injuries sustained by any person present at the time of the incident and whether or not each injury was attributed to police action;
    - f) A description of the employee's weapon, ammunition used, the number of rounds, direction of fire, distances, type of holster, and any other relevant information concerning weapons and tactics used;
    - g) A description of the weapons used by the suspect, and their perceived behavior at the time of the incident;
    - h) All available information related to the suspect;
    - i) A description and sketch of the scene, to include lighting, weather conditions, obstacles (natural or man-made) and any other element that would have a bearing on the incident;
    - j) Reports and written statements made by Department personnel and witnesses;
    - k) Photographs, video, forensics and physician reports and any other evidentiary information gathered; and
    - l) Any additional information that is deemed to have bearing on the incident.
  - 3. The IRB shall have access to all available and relevant information concerning the incident (i.e. written reports, witness statements, photographs, videos, forensic results, etc.).

- a) IRB may request additional information.
  - b) IRB may interview Department members and witnesses.
- B. Findings and recommendations of the IRB will normally be completed within 15 days. The Chief of Police may grant an extension.
  - 1. Following the conclusion of the IRB investigation, the Chairperson of the Board will submit a written summary of the IRB's findings to the Chief of Police.
  - 2. The summary shall be submitted in a uniform format that includes:
    - a) Board convened: when, where and how many sessions;
    - b) Board members present;
    - c) Department member involved;
    - d) A factual synopsis of the incident being reviewed;
    - e) Allegations heard by the Board;
    - f) Persons interviewed;
    - g) Evidence considered;
    - h) Summary of the Board's discussion and review process;
    - i) Record of the Board's vote and recommended findings;
      - i. In-policy, the employee's actions/activities in response to the circumstances were appropriate and consistent with Department policies and procedures.
      - ii. Out-of-policy, the employee's actions/activities in response to the circumstances were not appropriate and/or not consistent with Department policies and procedures.
      - iii. Unintentional, the employee's actions/activities were not intended to have occurred.
    - j) Training and policy recommendations;  
*(If there are any policy and/or training issues, such findings should state the exact circumstances and identify any gap in policy or training).*
    - k) Recommendations of remedial action such as additional training for the involved officer; and
    - l) Recommendations regarding the adequacy and thoroughness of the incident investigation.
    - m) Unless directed by the Chief of Police, the Board will not recommend discipline.
  - 3. The Chief of Police has final authority over the IRB and is responsible for making the final determination regarding the IRB's disposition of the incident.

#### IV. Employee Rights and IRB Proceedings

- A. All IRB proceedings are confidential. Proceedings shall be closed to the media, and to members of the Department and public not specifically authorized by the Chief of Police.
  - 1. If the Chief of Police determines a review is warranted following an incident, the Department employee whose actions/activities are under review shall be notified in writing within 48 hours of authorization. That notification will give the involved member notice of when and where the Board convenes.

2. The employee shall be granted appropriate preparation time prior to his/her reporting to the IRB. The employee shall have the right to have counsel of his/her choosing present during the proceedings.
- B. Once the IRB proceedings begin, the Chairperson shall call the proceedings to order.
  1. The Chairperson will receive and distribute to all members of the Board copies of the incident investigator's report.
  2. The employee whose actions are under review shall be advised of the Garrity administrative rights (Garrity vs. New Jersey 1967) in writing.
  3. A summary of the incident and available facts will be presented by the assigned investigator of the incident.
  4. IRB members may:
    - a) Request additional information to be presented; and
    - b) Take testimony of affected employee(s), incident investigators, witnesses, and members of the Department.
  5. The employee shall have the right to:
    - a) Make a personal statement or stand on his/her written report;
    - b) Question testimony and information presented;
    - c) Present testimony, evidence, witnesses and relevant information; and
    - d) Answer questions posed by IRB members.
  6. Concluding the proceedings, the IRB members will make a determination of finding.
    - a) The employee shall not have the right to be present during the voting of the Board.
    - b) Once the Chief of Police has made a final determination of findings, the affected employee will receive a formal disposition letter, normally within 72 hours.
      - i. The employee shall be given the opportunity to make a response to the Chief of Police.
      - ii. The employee may challenge the findings and/or any aspect of the IRB process, utilizing the grievance procedures defined within the Madison City Personnel Policies and Procedures Manual and the Madison County Law Enforcement Officers' Bill of Rights.

#### **V. IRB Records and Documents**

- A. IRB proceedings may be audio and/or video recorded. Confidentiality of information presented and/or discovered during the IRB process shall be maintained. The release of IRB findings and/or related information shall only be made at the discretion of the Chief of Police.
- B. IRB files will be appropriately recorded with an OPS file number and shall be maintained in a secure location within the office of the Chief of Police.
  1. Access to secure files shall be granted to the Chief of Police and OPS.
  2. Others having a need to review such files must obtain permission from the Chief of Police.